



Attestation: Retainer payments authorized under the Appendix K of §1915(c) Home and Community-Based Services waivers

To the CEO/Executive Director:

Providers are required to submit an attestation to the Developmental Disabilities Administration regarding your agency’s use of retainer days during the Public Health Emergency. The attestation will be verified by the Developmental Disabilities Administration during year-end reconciliation, to ensure compliance with the Center for Medicare and Medicaid Services “guardrails”¹ for retainer payments under the provisions of the Appendix K. Upon review of provider financial statements and cost report documents during the year-end reconciliation process, the Developmental Disabilities Administration may seek recoupment of paid funds that do not meet the guardrails as required by CMS. The guardrails, as identified below, are only subject to Retainer Days/Fees claimed and paid during the time in which the Appendix K is active. Service provider agencies must adhere to the following guardrails listed below:

Provider Name: _____

We attest to the following in accordance with the Retainer payments authorized in Appendix K under section 1915(c) Home and Community-Based Services waivers for the period of _____(MM/DD/YYYY) to _____(MM/DD/YYYY) during fiscal year _____. These controls are the responsibility of the organization to adhere to and manage.

Based upon our examination of retainer days claimed/billed for by _____ (Provider Name) from _____(MM/DD/YYYY) to _____(MM/DD/YYYY) we make the following attestations based upon the guardrails stipulated in the guidance in Appendix K under the authority of section 1915(c) Home and Community-Based Services waivers.

¹ COVID-19 Frequently Asked Questions (FAQs) for State Medicaid and Children’s Health Insurance Program (CHIP) Agencies. Pgs. 60-61. January 6, 2021. Centers for Medicare and Medicaid Services.

Guardrail	Attestation	Y/N	Period (Start - End)
Limit retainer payments to a reasonable amount and ensure their recoupment if other resources, once available, are used for the same purpose. A retainer payment cannot exceed the payment for the relevant service	_____ (Provider Name) attests that this guardrail has been adhered to. If not please report the nature of the noncompliance to the appropriate DDA staff (Fiscal or Program)		
Retainer payments will be subject to recoupment if inappropriate billing or duplicate payments for services occurred as identified in a state or federal audit or any other authorized third-party review. Note that “duplicate uses of available funding streams” means using more than one funding stream for the same purpose.	_____ (Provider Name) attests that this guardrail has been adhered to. If not please report the nature of the noncompliance to the appropriate DDA staff (Fiscal or Program)		
Require an attestation from the provider that it will not lay off staff and will maintain wages at existing levels.	_____ (Provider Name) attests that this guardrail has been adhered to. If not please report the nature of the noncompliance to the appropriate DDA staff (Fiscal or Program)		
Require an attestation from the provider that they had not received funding from any other sources, including but not limited to unemployment benefits and Small Business Administration loans, that would exceed their revenue for the last full quarter prior to the PHE, or that the retainer payments at the level provided by the state would not result in their revenue exceeding that of the quarter prior to the PHE.	_____ (Provider Name) attests that this guardrail has been adhered to. If not please report the nature of the noncompliance to the appropriate DDA staff (Fiscal or Program)		

This report is intended solely for the information and use of the Maryland Department of Health, which specified the criteria. It should not be used by other persons for any other purpose.

Signature of CEO/Executive Director

MM/DD/YYYY

Signature of Board President/Chairperson

MM/DD/YYYY